IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 17416 of 2007(W)

AGAINST THE ORDER IN EP 23 1996 IN
OS.626/1990 of SUB COURT,NEYYATTINKARA

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PETITIONER:

V.JAYARAJAN, S/O.VELAYUDHAN, RESIDING
AT RATNA MANDIRAM, NEYYATTINKARA VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS

RESPONDENTS:

THE SOUTH INDIAN BANK LTD., REPRESENTED
BY ITS BRANCH MANAGER, UDIYANKULANGARA,
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY SC ADV SHRI. K.PRABHAKARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 17416 OF 2007 W

Dated this the 7th June, 2007.

JUDGMENT

This writ petition is filed challenging the order passed by the learned Subordinate Judge, Neyyattinkara in E.A.60/2005. A perusal of Ext.P2 statement filed by the judgment debtor would show that he has paid an amount of Rs.8,15,000/- towards the decree debt. The learned Sub Judge refers to the statement dated 31.7.2006 and holds that there is a balance of Rs.2,82,548.25. Therefore she directs the judgment debtor to deposit it within two months and to pay one half of the same before 26.3.2007. Learned counsel for the writ petitioner submits that the Subordinate Judge has not taken into consideration the first proviso to Order XXI Rule 89(3) in arriving at the figure and that she has not given the reasons for arriving at the balance due as Rs.2,82,548.25. Since nothing is discernible regarding the manner in which the court has arrived at that figure or which is simply based on a statement by one of the parties, it is only just and proper to direct the learned Subordinate Judge to determine the amount of balance as per law after hearing both sides and then direct the judgment debtor to pay the amount. The writ petitioner also be granted sufficient time to make the

payment, if found after the ascertainment of the amount.

Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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